

Senate File 134 - Introduced

SENATE FILE 134

BY QUIRMBACH, DVORSKY, and
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A BILL FOR

1 An Act relating to consumer contract terms.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 714.16D Unfair consumer contract
2 terms.

3 1. For purposes of this section:

4 a. "Consumer" means a person who buys, leases, or rents
5 merchandise.

6 b. "Merchandise" means the same as defined in section
7 714.16.

8 c. "Person" means the same as defined in section 714.16.

9 2. A person shall not include in a contract or proposed
10 contract for the sale or lease of merchandise a provision
11 waiving a consumer's right to make any statement regarding the
12 seller or lessor, the seller's or lessor's employees or agents,
13 or the merchandise.

14 3. A person shall not include in an agreement evidencing the
15 resolution of a dispute regarding a contract made in connection
16 with the sale or lease of merchandise a provision barring the
17 consumer from communicating information to a governmental
18 official or agency, or a representative of a governmental
19 official or agency.

20 4. A person shall not seek, threaten to enforce, or enforce
21 a contract provision or an agreement evidencing the resolution
22 of a dispute that violates this section. A person shall not
23 penalize a consumer for engaging in any conduct protected by
24 this section.

25 5. A waiver of any provision of this section is contrary to
26 public policy and is void and unenforceable.

27 6. An attempt by a person to have a consumer waive any
28 rights given in this section is a violation of this section.

29 7. A violation of this section is an unlawful practice under
30 section 714.16. The remedies and penalties provided by section
31 714.16 apply to a violation of this section.

32 EXPLANATION

33 The inclusion of this explanation does not constitute agreement with
34 the explanation's substance by the members of the general assembly.

35 This bill forbids the inclusion, in a contract for the

1 sale or lease of merchandise, of any provision which would
2 prohibit a consumer from making any statement regarding the
3 seller, lessor, or the merchandise. The bill also forbids
4 the inclusion, in an agreement evidencing the resolution
5 of a dispute relating to the sale or lease of merchandise,
6 of any provision which would prohibit a consumer from
7 communicating information to a governmental official or agency.
8 "Merchandise" includes any objects, wares, goods, commodities,
9 intangibles, securities, bonds, debentures, stocks, real
10 estate or services. Any waiver of a consumer's rights to make
11 statements regarding the seller, lessor, or merchandise is void
12 and unenforceable. An attempt by a person to have a consumer
13 waive the consumer's rights to make a statement regarding the
14 seller, lessor, or merchandise is a violation of the new Code
15 section and is an unlawful practice under Code section 714.16.
16 Under Code section 714.16, with regard to unlawful practices,
17 the attorney general has the authority to issue subpoenas,
18 hold hearings, adopt administrative rules, and file lawsuits
19 to obtain temporary and permanent injunctive relief, consumer
20 reimbursement, costs and attorney fees, and civil penalties up
21 to \$40,000 per violation.